

Bugging Is an Old

By Richard Harwood

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NOT SINCE THE LATE Howard McGrath's tearful departure from Washington in 1952 has the image of the Department of Justice been so muddled.

The problem of the McGrath era was the appearance of corruption. The problem today is the appearance of bureaucratic bungling, ineptness and internal disorder on a grand scale.

The extraordinary "who's-a-liar" exchange last week between the Director of the FBI, J. Edgar Hoover, and his nominal superior for three years, Robert F. Kennedy, illuminated the Department's afflictions in spectacular fashion.

But that was merely the newest episode in a series of strange misadventures stretching back for many months.

A Few Misadventures

IN MARCH AND AGAIN in November, the Department of State—ade-

quately burdened with problems of its own—suffered public embarrassment of at least moderate proportions from the deeds of the men at Justice.

It was publicly revealed in the first instance that the FBI was conducting international surveillance checks on unsuspecting American citizens traveling abroad and was using State Department communications facilities and embassy personnel in the process.

The November gaffe was the reluctant admission that agents from Justice had been "bugging" the Dominican Republic Embassy in Washington for an undetermined number of years, which led to the widespread presumption that other embassies were similarly favored. The diplomatic community was not amused.

In mid-July, the contrite Assistant Attorney General in charge of anti-trust prosecution, Donald F. Turner, was forced to give a public explanation for the generosity he accepted from the Anheuser-Busch Co. a month after

dismissing an antitrust suit against the big St. Louis brewery. With his son, Turner was flown out to St. Louis on the company's private plane to attend the major league All-Star baseball game. One of his traveling companions was Vice President Hubert Humphrey.

There was no allegation of wrongdoing by the Republicans who thoughtfully brought the incident to light, but they made the point that executives of the company and their wives had contributed \$8000 to the President's Club less than a month before the antitrust suit was dropped.

And a Few More

BEGINNING LAST summer, a flood of books poured off the presses attacking the conclusions of the Warren Commission about the assassination of President Kennedy.

Among the more persuasive documents relied on by the Commission's critics and by a skeptical public were

Federal Plague

two FBI memoranda which flatly contradicted the official autopsy report on the President's death.

On May 24 and again on July 14, the Solicitor General of the United States, Thurgood Marshall, went before the Supreme Court to confess publicly that FBI eavesdroppers had violated the constitutional rights of a convicted income tax evader, Fred B. Black Jr., and had, in the process, ruptured the confidentiality of the lawyer-client relationship.

The ramifications of that disclosure are still spreading and are not confined to the troubled corridors of the Justice Department building. It has raised grave questions about the credibility, the administrative capacity and the ethical standards of some of the most responsible officials of the Government.

Kennedy's Fortunes

SEN. KENNEDY'S presidential fortunes are involved. If, as Director

Hoover has insisted, Attorney General Kennedy was not only cognizant of but encouraged the illegal eavesdropping in which the FBI has been engaged for years, his political position is hardly enhanced. His credibility would be damaged, for he has denied the Hoover claim without reservation.

His position with the liberal intellectual establishment would likewise be impaired, for eavesdropping is inconsistent with prevailing concepts of civil liberty in the United States.

If, as Kennedy insists, he was both opposed to and unaware of the FBI's eavesdropping practices, his executive competence could be brought into question. Because of his unique relationship to the White House, he was in a far better position than any of his predecessors or successors to assert the authority of the Attorney General over the FBI.

Furthermore, ignorance of what Hoover and his men were doing would be a serious indictment of the com-

munications process in the Department during Kennedy's tenure.

Other lawyers in Justice were fully aware that eavesdropping was going on. William G. Hundley, the head of the organized crime section, knew it. Assistant Attorney General Herbert J. Miller Jr. knew it in 1961 when he reported to Congress on the precise number of "bugs" being monitored by the FBI.

Hoover's Situation

AS FOR HOOVER, the situation is no less serious. He is, in effect, charged by Kennedy with subterfuge and insubordination.

He is subject to the further charge of hypocrisy because his public statements over the years have been uniformly critical of "unethical" investigative tactics in general and of wiretapping and eavesdropping in particular. His own commandment to his agents, incorporated years ago in the

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FBI Manual of Rules and Regulations, prohibited "any illegal or unethical tactics in procuring information."

This regulation was reaffirmed in 1962 by an order from Kennedy. Yet, it is now known that the FBI for years has systematically used what the Justice Department admits are illegal eavesdropping devices to procure information. The agency's electronic activities were conducted on a national scale and may have involved the expenditure of hundreds of thousands of dollars.

In Milwaukee, according to FBI testimony on Nov. 3, the monitoring of a single "bug" engaged 23 agents. In Las Vegas, 20 agents were assigned at various times to monitor a single "bug" in a gambling casino.

In the face of these operations, what interpretation was an individual FBI agent to place on the official commandment of the Bureau: "Entrapment, or the use of any other improper, illegal, or unethical tactics in procuring information in connection with investigative activity will not be tolerated..."

To former Attorney General Nicholas Katzenbach, the whole spectacle was distasteful and in June he told a conference of State officials in Washington:

"I would question very seriously whether any situation outside of national security situations would justify trespassing. And the installation of a bug in anybody's room at all would be trespassing. I am sure, put in the right place, you could learn a lot. But I am not sure that kind of invasion of privacy is ever justified."

Long-Festering Issue

ETHICS, LAW AND regulations aside, the events of recent months have raised again the long-festering issue of who runs the FBI. That issue is reflected in Kennedy's charge that Hoover acted capriciously and without authority in deciding who was to be bugged and, on what terms, and it was reflected in Hoover's challenge to Kennedy's credibility and his release of internal FBI documents to support his position.

Those were unilateral decisions. Justice has confirmed that he neither notified nor obtained the consent of his titled superiors in Justice before acting.

Even the White House expressed surprise at what had been done and, in the context of its own problems with the "credibility gap," could find little profit in a controversy in which the issue was raised anew.

The implication was strong that as a child of Justice, the FBI was at least

the equal of the parent. It has more employees (16,000) than the Department of Labor and the Atomic Energy Commission combined. Its budget is twice as large as the budget given to the Attorney General for all the legal activities and administrative expenses of the Department.

Its mystique of institutional independence was recognized by Congress only a few months ago in the voting of funds for a new FBI building that will physically and psychologically divorce the agency from the Department to which it is nominally assigned.

The problems of administration involved are common to the Federal bureaucracy.

A succession of Cabinet officers passes through the large paneled offices on the upper floors, rarely staying long enough to leave any measurable impact on the thousands of professional civil servants in the offices below. There have been two Attorneys General in the last five years, plus Ramsey Clark who is the "acting" man in charge now.

Harding's Man

HOOVER, ON THE OTHER hand, has been where he is since the Harding era and has molded the agency in his own image. He has served with 15 attorneys general, plus Clark, and eight Presidents. When he was reappointed at the age of 70 by President Johnson in 1965, Hoover was told he could occupy the directorship as long as it suited him. From that position of strength and longevity, he remains in charge.

The internal interests of his agency and its agents have been well-served under his tutelage. They have become an elite force within the government.

But the nature of their task, the methods they employ and the range of their interests involves the fortunes and success of other agencies and other men. The malaise that can follow is reflected in some of the problems confronting Justice today.

Will it be able to successfully prosecute such notable defendants as Robert G. "Bobby" Baker, the one-time boy wonder of Capitol Hill? His case is clouded by the eavesdropping issue.

What happens to the income tax prosecutions of the Internal Revenue Service against such Las Vegas gamblers as John F. Drew and Moe Dalitz? Their cases are clouded by the same issue.

Can the State Department henceforth assure foreign diplomats that there is privacy of communication along Embassy Row?

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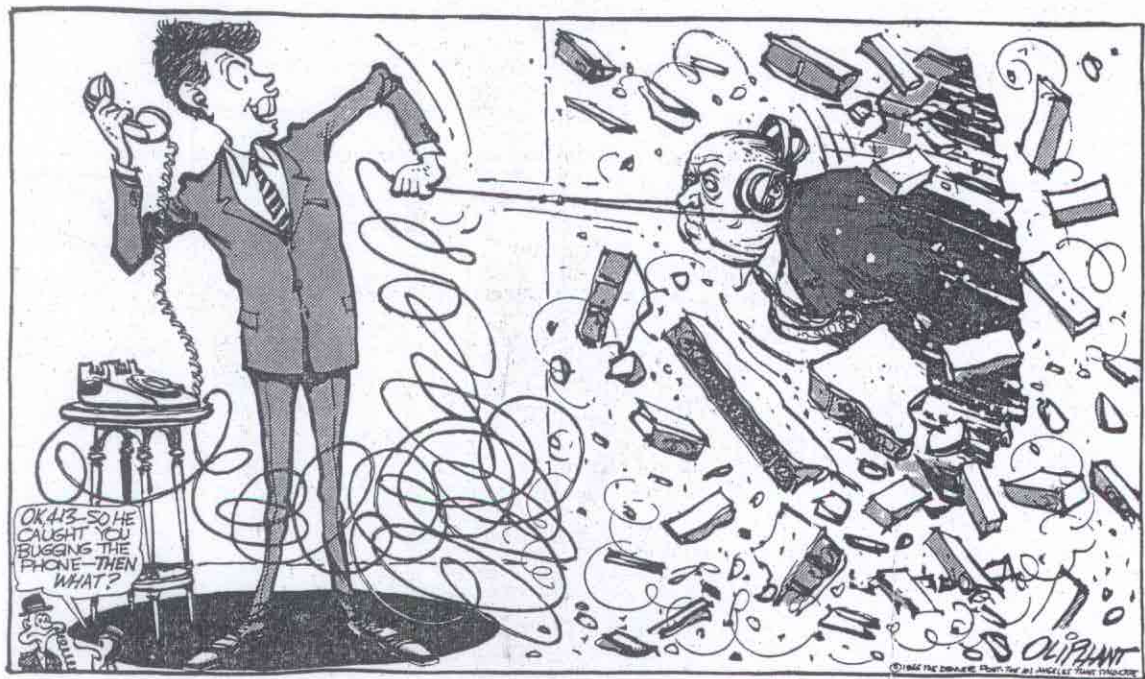
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Pandora's Box.

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"Why, J. Edgar—I've been trying to get you all day!"

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THE KANSAS CITY STAR

Bugged.